

EST-FA04-0201276-S : SUPERIOR COURT
NOWACKI, SUZANNE : JD STAMFORD/NORWALK
VS. : AT STAMFORD
NOWACKI, MICHAEL : JUNE 29, 2009

* ordered on appeal by defendant ST-133

B E F O R E:

THE HONORABLE ROBERT MALONE

A P P E A R A N C E S:

REPRESENTING THE PLAINTIFF:

Kevin Collins, Esq.
Law Offices of Kevin Collins

REPRESENTING THE DEFENDANT:

Michael Nowacki
Pro Se

Paul J. McKenna, CER
Court Recording Monitor

Transcribed by: McKenna

1 [begins at: 10:27]

2 THE COURT: There was a matter that was moved
3 over to this Court from Judge Harrigan's court. And
4 I just have a question on Nowacki versus Nowacki, if
5 I'm pronouncing that correctly.

6 MR. COLLINS: Yes, you are, Your Honor.

7 THE COURT: I note that it was filled out and I
8 do believe it's not an agreement; it's an argument,
9 is that correct?

10 MR. COLLINS: It is, Your Honor.

11 THE COURT: Approximately how long will that
12 take?

13 MR. COLLINS: Your Honor, I would suggest no
14 more than 15 minutes.

15 MR. NOWACKI: Your Honor, I would suggest it's
16 going to be substantially longer than that.

17 MR. COLLINS: Well, I think Your Honor needs to
18 hear us on that issue. And Ms. Bernier, who's the
19 GAL, needs to leave soon. So if the Court -- I
20 mean, Mr. Nowacki thinks this is an evidentiary
21 hearing; that's why he thinks it's longer. But it's
22 not, in my mind, an evidentiary hearing.

23 THE COURT: All right. Then why don't we do --
24 whose motions are they?

25 MR. COLLINS: They're mine, Your Honor.

26 THE COURT: All right. Why doesn't everybody
27 come up and let me take a look through the motions

1 that are pending, all right?

2 MR. COLLINS: Yes, Your Honor.

3 MS. BERNIER: For the record, Your Honor, Lacey
4 Bernier, prior GAL in this case.

5 THE COURT: Prior GAL?

6 MS. BERNIER: Yes. I'm not on the record yet.
7 (noise obliterates) the website.

8 THE COURT: Had this matter gone to judgment?
9 Is that the situation?

10 MS. BERNIER: This is post-judgment, Your
11 Honor.

12 THE COURT: Approximately how long ago did it
13 go to judgment?

14 MR. COLLINS: Four years ago, Your Honor.

15 THE COURT: Happy Anniversary. Okay. So we
16 have approximately four years ago, so you're out of
17 the case at this particular point in time?

18 MS. BERNIER: That's correct, Your Honor.

19 MR. COLLINS: Well, that's not what Mr. Nowacki
20 thinks.

21 MR. NOWACKI: Well Your Honor, there were
22 certain provisions written into the parenting plan
23 where Lacey was accepted and signed in the parenting
24 plan that she would be the first court of appeal on
25 any issues in regards to the execution of this
26 parenting plan. And inasmuch as she has not gone to
27 court and requested to be removed in her role as

1 Guardian, and she has expressed a desire to do so,
2 my feeling is that the reason why that was written
3 into the parenting plan is to avoid a matter like
4 this that can be brought up at a later point in time
5 where we have not exhausted every alternative to
6 meet with the Guardian Ad Litem who operates in the
7 best interests of the children.

8 THE COURT: All right. What provision of the -
9 - was it an agreement or was it an argued
10 matter/trial and then decided by a Court? Was it --
11 which one was it? Which way was it, sir?

12 MR. COLLINS: Your Honor, there was a
13 separation agreement filed.

14 THE COURT: All right.

15 MR. COLLINS: Mr. Nowacki is referring to a
16 provision which, although the exact terminology may
17 not have been used, he's referring to something akin
18 to a gatekeeper. That's a different circumstance
19 for Ms. Bernier than being GAL.

20 For the record, Attorney Kevin Collins for the
21 plaintiff, Suzanne Nowacki.

22 Your Honor, to make a long story short, the
23 motions we're here on today are:

24 I have filed a motion -- two motions for
25 modification brought by way of orders to show cause.
26 They are scheduled for August 3rd. One of the
27 motions for modification is for a modification of

1 the custody arrangement in this case. The other is
2 for a modification of child support.

3 The motions that are on this morning are more
4 or less -- not more or less -- they are the
5 preliminary motions which are often commonplace and
6 required as a predicate to such motions. The
7 motions I'm proceeding on today are a motion for a
8 psychological evaluation; a motion for an
9 appointment of an attorney for the minor children;
10 and a motion for referral to Family Relations.
11 Those are the motions which are on today, which to
12 my mind, are legal matters and that's why I
13 represented to the Court I can see nothing longer
14 than 15 minutes or so this morning because those are
15 not evidentiary motions.

16 As a collateral matter, I know that Mr. Nowacki
17 -- I know that Ms. Bernier claims as follows -- and
18 I think correctly so -- that according to the court
19 rules, after there being six months of inactivity,
20 appearances are negated, if you will, from the
21 record. She is not, to my knowledge, still listed
22 as the GAL in this matter.

23 However, Mr. Nowacki -- despite her entreaties
24 that she is not longer the GAL -- and in fact, these
25 children are of a sufficient age and discretion
26 where they do not require a GAL. She does not
27 desire to continue to serve in that capacity. I

1 believe I speak correctly for (indiscernible).

2 MS. BERNIER: Yes. Your Honor, this is four --
3 three, four years post-judgment. These children,
4 Tim and Kerry, are ages 12 and 14 right now. They
5 certainly are old enough to have an attorney, and no
6 longer needing a Guardian Ad Litem.

7 MR. NOWACKI: Your Honor, I have spoken to both
8 children in regards to their preference. And both
9 children have said to their father, in very tearful
10 ways, that they do not want to be put in a situation
11 where one parent is going to be awarded the custody
12 of these children.

13 I have been a very involved parent in this
14 process and I believe if you check the parenting
15 agreement, there are stipulations here that Lacey
16 did agree to. There was no time limitation assigned
17 to that which is in the parenting plan. So I
18 believe that since there's been no effort on behalf
19 of the plaintiff to meet with the Guardian Ad Litem,
20 this hearing shouldn't be started until we've gone
21 through the process and made an earnest effort.
22 Because she has background, it's more efficient to
23 do it that way. And it's in the best interest of
24 the children to do it that way.

25 It's Point 31 in the parenting plan, Your
26 Honor.

27 THE COURT: All right. Well, in reading

1 through the parenting plan that was incorporated by
2 reference into the judgment, together with the
3 stipulation of the parties -- first of all, Ms.
4 Bernier, as her appointment or representation --
5 your -- not representation -- but as Guardian Ad
6 Litem, much like someone who is appointed as an
7 attorney for a minor child or counsel for parties --
8 at the end of six months, automatically, their
9 appearance is removed from the formal docket.

10 And I am looking at the ages of the children,
11 which is 12 and 14. You have to take a look at that
12 in conjunction with 31, which discusses, "Should a
13 conflict arise between the parents involving a major
14 decision regarding either child" -- and I certainly
15 understand that someone could interpret that to mean
16 a request to amend or modify, if you will, the
17 judgment regarding children.

18 But I interpret that as to mean if there was a
19 decision regarding a school or regarding some other
20 activity -- something that was going on between the
21 parents or disagreements between the parents about a
22 child's activity, about a child's rules that are
23 being instituted within a particular home --
24 anything of that nature, then in that event, Ms.
25 Bernier would act as gatekeeper.

26 With regard to the children's ages at this
27 point -- what grades are these children in? I take

1 it the 14 is either in eighth grade or just finished
2 the first year of high school. Which would that be?

3 MR. COLLINS: One is going into freshman year;
4 one is going into the seventh grade.

5 MR. NOWACKI: Your Honor, I would like to also
6 comment that I think a major decision for the
7 children -- about a change in custody -- is a
8 significant change in their life.

9 THE COURT: No one's denying that it wouldn't
10 be a significant change in their --

11 MR. NOWACKI: And that they --

12 THE COURT: -- but I take this not that she's
13 to be the -- to try and arbitrate, should there be a
14 motion to modify custody. If that was the intent,
15 that certainly could have been in there, but it
16 isn't. And it seems to me that if there is a motion
17 made for modification, which I don't know if that's
18 in here at this particular point --

19 MR. COLLINS: It is, Your Honor. It's an order
20 to show cause and has been to Mr. Nowacki at this
21 point and it is scheduled on that calendar for
22 August 3rd.

23 MR. NOWACKI: Your Honor, May I comment?

24 THE COURT: Yes.

25 MR. NOWACKI: Ms. Bernier, in fact, did not
26 resign from her active participation in this case.
27 As recently as February of this year, she was

1 collecting fees in regards to her involvement in
2 this case. So to suggest that Ms. Bernier,
3 suddenly, wants to resign from her role, when in
4 fact she was taking money for both of us for her
5 services as late as February, would suggest to me
6 that she elected, at the point in time, to get
7 involved in certain matters that were ongoing in the
8 case, that she did not resign her role. And now
9 that the going gets tough, suddenly now, Ms. Bernier
10 is indicating that she no longer wants to be
11 involved in this situation, after she has been
12 accepting fees that existed also in the period of
13 time that was post-six months, that also date back
14 to February of 2005. And I believe, Your Honor, I
15 have the receipts here from my checkbook that can
16 validate that fees were paid. I wrote a check to
17 Lacey for \$400 in excess of her fees because I was
18 anticipating that her continuing involvement -- and
19 she did cash that check.

20 THE COURT: All right. That being the case,
21 sir, and that being said, again, her formal
22 appearance in the file, just as prior counsel who
23 may have represented you or counsel who may have
24 represented your former spouse, their appearance, if
25 you will, lapses automatically.

26 She -- Ms. Bernier may have been acting in
27 terms of questions that may have come up -- as I

1 stated earlier about decisions regarding children,
2 but at this particular age, going into a motion for
3 modification -- there's no pre-condition, on a
4 motion for modification, that she would act as
5 gatekeeper. And if there is a motion for
6 modification, which it appears there is at this
7 particular point, the appropriate person to -- if
8 someone is going to be appointed, it would be an
9 attorney for a minor child -- or minor children --
10 because they're of an age where they now, in terms
11 of age -- and I haven't heard anything that leads me
12 to believe that they have any incapacities or
13 limitations mentally or emotionally -- that being
14 the case, an attorney would be appointed -- or
15 perhaps should be appointed for the minor children.

16 And again, I don't see a motion in here for
17 that, but that would require --

18 MR. COLLINS: There is a motion, Your Honor.

19 THE COURT: Is it -- where is it? I see. We
20 do have one, number 196. Now, I should point out
21 that with regard to motions 196 and 197; one which
22 deals with an attorney for the minor children to be
23 appointed and the other for counsel fees --

24 MR. COLLINS: I'm not proceeding on that today,
25 Your Honor.

26 THE COURT: Because both of those would require
27 financial affidavits for me to be able to look at

1 those.

2 MR. COLLINS: Right. Well, to that end, Your
3 Honor, we are in the middle of a hearing before
4 Judge Novack on two things.

5 Mr. Nowacki has brought a motion for contempt
6 against Ms. Sullivan, formerly Nowacki. And that
7 hearing is scheduled to reconvene on July 8th. So
8 there are fresh financial affidavits in this matter,
9 which I believe should be in the court file anyway.
10 We were last in court around the third week of
11 April. So there are financial affidavits.

12 I'm not seeking counsel fees today but I am
13 seeking the appointment of an AMC; I'm seeking a
14 referral for a psychological evaluation of the
15 parties and the children, perhaps; and I'm further
16 seeking a referral to Family Relations, which is
17 typical of a matter like this.

18 I would point out, Your Honor, that since the
19 motion for modification of custody is on in early
20 August, these preliminary matters can be started at
21 this time, rather than waiting till August to have
22 this done, which is why I proceeded as I have.

23 I would further point out that the typical way
24 of handling this is for me to consult with other
25 counsel in order to arrive at a mutually agreeable
26 psychological or psychiatric evaluator or attorney
27 for the minor children. The problem with that is,

1 Your Honor, Mr. Nowacki has, in the last week or
2 month or whatever -- and I've only been in this case
3 three-and-a-half months or so -- he told me as
4 recently as yesterday, the grievance that he's
5 filing against me should be filed by the end of
6 business today. He's calling the IRS on me; he's
7 calling the IRS on my client. He has reported
8 Attorney Tom Colin -- or my predecessor in this case
9 who he drove out of the case -- he's reported him
10 for passing him too closely on the way to the men's
11 room. Last week, he has reported my client's
12 husband to the New Canaan police for looking at him
13 meanly on the train on the way home from New York.

14 The upshot is I need the Court to make these
15 decisions. I cannot discuss these with Mr. Nowacki.
16 It is impossible to discuss things with Mr. Nowacki,
17 which goes to the sum and substance of why co-
18 parenting has become an impossibility in this
19 matter.

20 He is threatening. He is bullying. And we
21 need to address this. And I need the Court to do
22 it.

23 THE COURT: Right. Well -- here's --

24 MR. NOWACKI: Your Honor, I would like to
25 respond to counselor, if that's appropriate.

26 THE COURT: Fine.

27 MR. NOWACKI: I find it fascinating that this

1 case and this parenting plan worked fine for four-
2 and-a-half years. And then it's not until, at which
3 point in time, that Suzanne Sullivan was promoted in
4 March of 2008, received a substantial raise in that
5 point in time. In August, I approached Suzanne
6 about sitting down and trying to resolve a
7 reordering of the percentages of the contributions.
8 And then she refused to do so.

9 I tried very hard to keep this out of court.
10 There was no mechanisms that are available to me to
11 get access to the information and that quite
12 truthfully, I am just appalled here, as to how Mr.
13 Collins can present certain information here, which
14 is not true to the Court and did so in front of
15 Judge Novack two weeks ago, all right?

16 And that the reason why I am representing
17 myself, Your Honor, and as an advocate for my
18 children, is because I was forced to spend \$150,000
19 to defend myself. That is money that could have
20 sent one of our children halfway through college,
21 based on the current rates of inflation. I am here
22 today to represent the very best interests, not the
23 best interests of my children. And the suggestions
24 of Mr. Collins that there shouldn't be adjustments
25 in the modifications in the percentages of the
26 child-related expenses, is at the very nexus of this
27 argument that he makes here today.

1 It's only until which point in time that
2 Attorney Collins realizes there is no other avenue
3 that he can pursue except to put the children into
4 the ante table of this high-stakes poker game. And
5 I am offended by it. And I'm offended by his
6 suggestions that this father has, in some way, not
7 been a stand-up individual to live up to every
8 aspect of my involvement in the execution of the
9 separation agreement and the parenting plan.

10 **Rulings and Findings on Motions Heard This Day**

11 THE COURT: All right. Well, I'm going to --
12 on the motion for the attorney for the minor
13 children, I'm going to grant that. And I'm going to
14 take it on the papers as to who to appoint. And
15 that will require, also, some input from that person
16 in terms of what retainer they would want -- hourly
17 fees -- and such. And so I will take the papers on
18 the appointment for the minor children.

19 With regard to the motion for a Family
20 Relations [sic] evaluation and study, I am going to
21 grant that.

22 And with regard to the psychological
23 evaluation, I note that the defendant -- Mr.
24 Collins, when you were presenting your argument, you
25 had mentioned parties and yet I look at your motion
26 and it discusses that the defendant undergo a
27 psychological evaluation.

1 MR. COLLINS: Your Honor, that's the form --
2 but I think that -- I've been doing this a long
3 time. I've yet to see one party ordered evaluated
4 and not the other. So I think that a mutual
5 evaluation is in order here. I think the children
6 need to be part of the process too, but I'll leave
7 that to the Court.

8 THE COURT: I'm not going to order that the
9 children undergo any form of evaluation until an
10 attorney for the minor children has had an
11 opportunity to be appointed and have an opportunity
12 to get into the fray and to meet with these children
13 or potentially get some records of these children.
14 I don't want to put them through psychological
15 evaluation questioning. I just don't see the need
16 for that at this point.

17 MR. COLLINS: No argument, Your Honor. No
18 argument.

19 THE COURT: I'm not saying that somewhere down
20 the line -- if there was some sort of problem that
21 became apparent, that's something different.

22 With regard to the evaluation by both parties,
23 if, in the event that that should be ordered, and we
24 get into the issue over what psychological
25 evaluator, if they're appointed -- if you have a
26 hearing that's looking again -- let's think this
27 thing through --

1 Family Relations -- I don't know that they can
2 complete an evaluation by August.

3 MR. COLLINS: They cannot, Your Honor. And I'm
4 not looking to expedite it for the August date. I
5 don't anticipate us having a custody hearing on
6 August 3rd.

7 THE COURT: I think it's highly unlikely.

8 MR. COLLINS: Right. And so --

9 THE COURT: Because I'm looking at a Family
10 Relations study. I'm also thinking if you're going
11 to have a psychological evaluation done of both
12 parties, the issue becomes, again, who bears the
13 cost of that or if they divide that equally, and who
14 is going to do the evaluation, and how promptly can
15 they do that.

16 MR. COLLINS: Your Honor, I'm only suggesting
17 that -- psychological evaluation, obviously, are not
18 done at the Family Relations level. They'd be doing
19 the custody study --

20 THE COURT: Right. I understand that.

21 MR. COLLINS: But I would suggest that -- I
22 consider the August 3 date more of a control date
23 than anything else. So I'm fully aware but --

24 THE COURT: All right. I just want to make
25 that clear on the record for both parties. It's --

26 I will take the motion for psychological
27 evaluation of the parties -- for both parties. I

1 can take that on the papers for determination of
2 whether someone should be appointed and if so, who?
3 And again, with regard to the cost factors, I can
4 take a look -- was there financial affidavits
5 submitted?

6 MR. COLLINS: There were, Your Honor --

7 MR. NOWACKI: Well Your Honor, those affidavits
8 are out of date.

9 MR. COLLINS: Well, that would not be my
10 suggestion, Your Honor, because if they're out of
11 date, then we have to file a new financial affidavit
12 before July 8th. Those are the affidavits upon which
13 Judge Novack it going to rely next week. So I would
14 suggest that if they're stale for these purposes,
15 they're stale for all purposes.

16 THE COURT: What were the date of those?

17 MR. COLLINS: April 22nd --

18 MR. NOWACKI: Twenty-second. There's been
19 bonus information for me that needs to be updated in
20 those. There's money been contributed to the
21 children's 529 plans. There's a lot of information
22 that is, in fact, not up to date in those. And by
23 the way Mr. Collins, I will have to you, as
24 required, five days before the hearing on July 8th,
25 an updated financial affidavit.

26 THE COURT: All right. Well, let's do this --

27 MR. NOWACKI: -- as you're required to do as

1 well.

2 THE COURT: July 8th. Let's do this: Are there
3 going to be revised financial affidavits?

4 MR. COLLINS: I don't know that I need to
5 revise ours but if Mr. Nowacki's position is that
6 he's going to revise his, then his position is it's
7 stale.

8 THE COURT: All right. What I'm --

9 MR. COLLINS: I would then suggest, however,
10 for Mr. Nowacki's purposes -- because Mr. Nowacki
11 veraciously reads the rules of professional conduct,
12 the practice book, and the Connecticut General
13 Statutes -- although he typically misreads them -- I
14 would suggest that the five-day rule applies and
15 since we're on for the 8th, I should be in receipt of
16 his revised financial affidavit no later than this
17 Friday, July 3rd.

18 THE COURT: All right.

19 MR. NOWACKI: Not a problem.

20 THE COURT: What I'm going to ask is if I can
21 receive -- I need to receive updated financial
22 affidavits promptly so I can take that into
23 consideration on taking the papers with regard to
24 the psychological evaluation and with regard to the
25 appointment of attorney for the minor children

26 With regard to the psychological evaluations,
27 you've heard Mr. Collins indicate that even though

1 his motion is directed to you, sir, he's really
2 essentially saying for both parties. Do you have
3 any position with regard to that?

4 MR. NOWACKI: Your Honor, I believe that this
5 effort is strictly an attempt to bring financial
6 pressure to me to not follow through with the
7 motions for modifications to be heard on July 8th. I
8 have waited a very long time to get the adjustments
9 on the children's expenses.

10 Suddenly -- all of a sudden, at which point in
11 time, that the plaintiff is now going to be
12 responsible for a greater portion of the children's
13 expenses. The only way that there can be, then, an
14 undoing of what was agreed to four-and-one-half
15 years ago when we separated and signed the parenting
16 agreement. And then on June 29th, we then signed the
17 separation agreement. And for that period of time,
18 I have been paying for 65 percent of approximately
19 \$60,000 worth of expenses. And the plaintiff is now
20 with 35 percent.

21 So what happens then? I file motions for
22 modification. We get assigned to Judge Harrigan,
23 who heard the pre-trial hearing back in April so he
24 had to recuse himself from the case. We then had to
25 wait for a new appointment time. The day before
26 that hearing, Attorney Collins files an objection to
27 the production of certain information that was vital

1 to be delivered to me for that April 28th hearing.

2 We began, then, instead, a hearing that was on
3 the contempt issues, which Judge Novack, at the end
4 of about two hours worth of testimony, asked us to
5 please join those motions together for a hearing
6 that was scheduled on June 24th.

7 A notice came out from the Court indicating
8 that Mr. Collins had a conflict, according to what I
9 understand from Jeff Diamond, and that now gets
10 pushed to July the 8th.

11 So during this period of time, most of the
12 controversy that has arisen is about the ongoing
13 expenses for the children that relates to my income
14 being down over 25 percent during this period of
15 time. And the plaintiff ends up making almost
16 double what she was making at the point in time of
17 the divorce.

18 As a result, certain choices have to be made
19 for the children in regards to Mr. Collins'
20 contention that the only order that is in place is a
21 65/35 split on these expenses. And most of the
22 tension that has existed in our relationship, in
23 regards to the best interests of the children,
24 relate to financial matters because the delays in
25 the process of this Court.

26 In addition to that Your Honor, as part of the
27 discovery, which the counselor intended to deliver

1 to me, he handed over papers that were delivered on
2 my front door step in a driving rainstorm,
3 unbeknownst to him. All of those papers were
4 unrecognizable. They had to be dried out. I was
5 told I was going to be receiving additional copies
6 of that material. And Attorney Collins has
7 indicated, on at least a half-a-dozen occasions,
8 we'll get that to you right away.

9 So what happens? Nothing happens. Nothing
10 happens. And as a result, we have to make
11 adjustments. So during a portion of my discovery,
12 what do I find out?

13 Well, I find out, as part of the financial
14 affidavits that we file quarterly, on behalf of the
15 children's expenses, that the plaintiff had, in
16 fact, submitted fraudulent expenses to me. And I
17 had been paying for 65 percent of her husband's --

18 THE COURT: Sir, I am going to interrupt you --

19 MR. NOWACKI: -- healthcare costs.

20 THE COURT: -- only because my question was:
21 do you have an objection or do you have some common
22 with regard to the psychological evaluation of both
23 parties?

24 MR. NOWACKI: I do.

25 THE COURT: So you do object to it?

26 MR. NOWACKI: I do object.

27 THE COURT: And is the basis of your objection,

1 sir -- just so I understand it -- I'm taking this on
2 the papers -- but just so I understand it, is the
3 basis of your objection -- what I'm hearing is that
4 -- I believe -- if I'm incorrect, I'm sure you'll
5 advise me -- but it seems to me what your position
6 is is that a psychological evaluation is not being
7 conducted for the purpose of truly obtaining a
8 psychological evaluation but rather, that it's being
9 used as a financial weapon?

10 MR. NOWACKI: Absolutely.

11 THE COURT: All right. I understand your
12 position. I'll take this on the papers and --

13 MR. NOWACKI: Your Honor, may I just -- I have
14 45 letters that have been written for me for today's
15 hearing that I would like to submit to this Court.
16 People that have volunteered to write me a letter to
17 talk about my parenting skills. And the suggestion
18 that there is a need for this process to be done and
19 this agreement to be undone, is simply outrageous to
20 not just me but to the 45 people, my family, my
21 family's heritage, and the values that my family
22 stands for in truth and honesty, integrity, and
23 commitment. I have lived up to every single letter
24 of this agreement, until which point in time that I
25 discovered that I had been paying fraudulent
26 expenses for my ex-wife's husband's healthcare
27 costs. That is fraud.

1 And the day before Judge Novack's hearing --
2 the day before -- finally, after four months of
3 conversations with Attorney Collins -- what arrived
4 in the car the Monday before the short calendar
5 hearing? A check for, ostensibly, \$1,850 from the
6 plaintiff -- from the plaintiff -- because she
7 finally acknowledged the level of the fraudulent
8 activity that she had been engaged in.

9 I find it outrageous that people can sit here
10 and make a judgment without all of the facts here.

11 THE COURT: Well, sir, the letters would be
12 inappropriate. The question and the issue that I
13 was going to would be the psychological evaluations.
14 And it would appear, based upon your most recent
15 statements of allegations, potentially fraud and
16 other wrongdoings -- that isn't before me. But
17 perhaps that would be something that a psychological
18 evaluation would be most appropriate for.

19 So I'll take this on the papers. I cannot take
20 your letters. That would not be relevant to that
21 issue. It may be relevant to a modification.
22 However, I should point out to you, sir -- and I
23 don't represent you; I cannot give you legal advice
24 -- but I suspect that you would find that they would
25 not be admissible because it would be hearsay. It
26 may be necessary, if so, to provide some of those
27 letters to Family Relations when they conduct their

1 evaluation, or perhaps to have some of those
2 individuals present at a hearing.

3 In any event, I'll take this on the papers --

4 MR. NOWACKI: Your Honor, I had someone here
5 today to speak on my behalf --

6 THE COURT: Well, that's wonderful but --

7 MR. NOWACKI: And I was told by Attorney
8 Collins that that would not be permissible.

9 THE COURT: Sir, again, I'm not hearing the
10 motion for modification.

11 Ms. Bernier --

12 MS. BERNIER: Yes.

13 THE COURT: -- you are not involved with this
14 file. And as I indicated to you, or indicated on
15 the record earlier, that your appearance, for formal
16 appearance sake and hearing sake, you're not
17 involved with this in that your appearance has
18 lapsed. And at this point, with the motion for
19 modification, it really is more appropriate, based
20 on the age of the children, that they have an
21 attorney for a minor child appointed for them -- or
22 children -- appointed for them.

23 I will take that on the papers and no doubt
24 will be appointing someone, but I want to think
25 through who would be a proper person, and as well,
26 taking a look at the financial affidavits.

27 MS. BERNIER: Thank you.

1 THE COURT: Thank you.

2 MR. COLLINS: Thank you, Your Honor.

3 THE COURT: And I do need those updated
4 financial affidavits.

5 MR. COLLINS: Yes, Your Honor.

6 THE COURT: Thank you.

7 MR. NOWACKI: Your Honor, there was a request,
8 made from Norm Roberts, that this file be delivered
9 downstairs so I may get a copy of the order that
10 Judge Novack made for production, which Attorney
11 Collins has refused to give to me.

12 MR. COLLINS: I don't know -- Your Honor, I was
13 in conversation with Attorney Colon.

14 THE COURT: All files go back downstairs at
15 some point, sir.

16 MR. NOWACKI: They asked that I specifically
17 request that it be sent down immediately, so I --

18 THE COURT: Well no doubt, we'll be taking a
19 break in a short time and it will be going down.

20 # # # #

21

FST-FA04-0201276-S : SUPERIOR COURT
NOWACKI, SUZANNE : JD STAMFORD/NORWALK
VS. : AT STAMFORD
NOWACKI, MICHAEL : JUNE 29, 2009

C E R T I F I C A T I O N

I hereby certify that the foregoing is a true and accurate transcription of an electronic recording done to the best of my ability, held in the above-entitled matter heard before the Honorable Robert Malone, Judge at Superior Court in Stamford, Connecticut on the 29th day of June, 2009.
Dated this 1st day of July, 2009, at Stamford, Connecticut.

Paul J. McKenna, CET
Transcribing Monitor

Note: This document has been edited in accordance with the *English Guide for Court Reporters*, second edition, by Lillian I. Morson.